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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,188	09/10/2003	Tsung I. Yu	YUTS3011/EM	3225
23364	7590	06/02/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			ALTER, ALYSSA M	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/658,188

Applicant(s)

YU, TSUNG I.

Examiner

Alyssa M Alter

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The amendment filed on March 10, 2005 (paper No. 2) has been received and considered. By this amendment, claim 13 has been canceled, claims 1-12 and 14 have been amended and claims 1-12 and 14 are now pending in the application.

### ***Response to Arguments***

Applicant's arguments, see page 7, filed March 10, 2005, with respect to the rejection(s) of claim(s) 1-12 and 14 under 35 U.S.C 101, 112 2<sup>nd</sup> paragraph and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sarbacher (US 3,610,250) and Krafft (US 5,050,595).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 5-6, 8, 10-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sarbacher (US 3,610,250). Sarbacher discloses an electrical contact-carrying garment for muscle stimulation that can be used to cover and treat the chest and upper body. According to Merriam-Webster {See Reference U}, a brassiere, also known as a bra, is an undergarment to cover and support the breasts. Therefore the

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examiner considers the upper garment of Sarbacher, as seen in figure 1, to be a bra since it covers and supports the breasts. Figure 1 also displays the electrodes, which the examiner considers to be the plurality of conductive plates, and the leads, which the examiner considers to be the plurality of conductive strips. The plug receptacle 41 can also be seen in figure 5. The selector switch plug, which is adapted for insertion into the plug receptacle of figure 5, can be seen in figure 7. The examiner considers the selector switch plug to be the electro-stimulating controller, with a plurality of conductive buttons, which enables the attachment to the plug receptacle conductive buttons.

As to claim 2, the "body garment with built in or affixed electrodes appropriately placed to enable selective stimulation of desired muscle areas, Appropriate electrical conductor leads from each of the built in electrodes are affixed to or entwined in the fabric of the garment, and are terminated in one selector switch"(col. 1, lines 52-57). Since the electrodes and leads can be built in or entwined, the examiner considers the strips and plates to be disposed in an inner layer.

As to claim 3, an IC circuit is a chip or a small electronic device made out of semiconductor material {See Reference V}. Inherent the pulse generator would have a chip. Therefore, the examiner considers the pulse generator to have an IC circuit. As to claims 5 and 8, the conductive strips, also know as the leads, and conductive buttons, which are the selector switch plug and the plug receptacle, are rivet-connected by both a male and female piece, as seen in figures 5 and 7.

As to claim 6, figure 12 displays an enlarged view of the selector switch and pulse coupling unit coupled together and carried by a garment. The examiner considers the knob 76 to be the stepping switch.

As to claim 10, figure 2 demonstrates that the conductive strip may be connected to more than one conductive plate. The conductive strips, which are the leads 52 and 53, are wrapped around the waist and connected to two conductive plates, which are electrodes 31c and 32c.

As to claim 12, "the various body-contacting electrodes are affixed to the inside surface of the garment either by an adhesive or by stitching, or the like, and are formed of a flexible conductive material, such as a metal foil or a conductive plastic" (col. 2, lines 72-75).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarbacher (US 3,610,250). Sarbacher discloses the claimed invention except for the buttons on the controller. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the controller as taught by Sarbacher

with a buttons since it was known in the art to enable the stimulation to be altered by the user to suit their individual needs.


As to claim 4, Sarbacher discloses the claimed invention except for the wave signal range. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the signal range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

2. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarbacher (US 3,610,250) in view of Krafft (US 5,050,595). Sarbacher discloses the claimed invention except for the pockets. Krafft teaches that it is known to utilize pockets to house and contain the therapeutic distribution means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the garment as taught by Sarbacher with the garment with pockets as taught by Krafft, in order to enclose and support the therapeutic delivery device means.

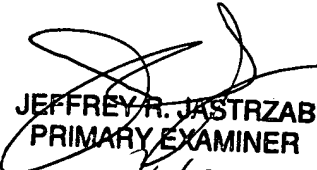
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alyssa M Alter  
Examiner  
Art Unit 3762



JEFFREY R. JASTRZAB  
PRIMARY EXAMINER

5/16/05